PART IV

Section—2-C (ii)

STATUTORY ORDERS ISSUED BY THE STATE GOVERNMENT UNDER THE CENTRAL ACTS AND STATE ACTS

GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT

Labour Disputes :—Industrial Dispute between the Workmen and the Management of Canara Tyre and Rubber Works Ltd., Kodialbail, Mangalore.

Award of the Labour Court, Mangalore—Published.

Read the following papers :—

(1) Letter No. ID/46/69/70-71 dated 13th April 1971 from Sri Mohd. Hameeduddin Khan, Presiding Officer, Labour Court, Mangalore.

BEFORE THE LABOUR COURT AT MANGALORE.

13th April 1971.

Reference (ID) (LCM) No. 46 of 1969.

Present:

Mohd. Hammeduddin Khan, B.Sc., LLB., Presiding Officer.

Between —

The workmen represented by the Secretary, Motor and General Mazdoor Sangha, Felix Pai Bazaar, Mangalore 1 ... *First party.*

and

The management of Canara Tyre and Rubber Works Ltd., Kodialbail, Mangalore. ... *Second party.*

The Government of Mysore being of opinion that an industrial dispute exist between the workmen and the managment of

Canara Tyre and Rubber Works Ltd., Managalore referred it under Section 10 (1) (c) of the Industrial Disputes Act, 1947 *vide* Order No. FCL 407 LLD 69, dated 1st September 1969 for adjudication to this Labour Court at Mangalore on the following points of dispute:—

"I. Is the management of M/s. Canara Tyre and Rubber Works Ltd., Kodialbail, justified in dismissing Sriyuths M. K. Vittala, A. Shivappa, K. Narayana and V.Krishnappa with effect from 9th December 1968?

II. If not, to what relief are the said workers entitled to?"

2. On receipt of the reference it was registered as Reference (ID) (LCM) No. 46 of 1969 on the file of this Court, and notices were issued to the parties to file their claim and counter statements.

The first party was represented by Sri P. Ghate, and the second party was represented by Sri K. S. Rao. On 22nd September 1969 claim statement was filed on behalf of the first party, and on 11th November 1969 the counter statement was filed on behalf of the second party. In view of the pleadings, the following additional issues were framed on 12th November 1969 apart from the points of dispute:—

1. Whether this dispute is an industrial dispute?

2. Whether the workmen were appointed as vulcanisers and boiler attenders and not as helpers and cleaners as alleged in para 3 of the claim statement?

3. Whether the domestic enquiry held by the second party is vitiated on the following grounds, *viz.*,

   (i) It was conducted against the principles of natural justice,

   (ii) The enquiry Officer showed partisan and prejudicial attitude against the workmen in the domestic enquiry by threatening the witness Sri Vittal Shetty, by not recording the statements of the witnesses properly and by refusing to accept a letter dated 27th November 1968 submitted by the workmen for production of certain documents, and

   (iii) The findings are not at all based on evidence and as such they are perverse.

4. Whether the action of the management in dismissing all the four workmen by separate identical orders dated 9th December 1968 amounts to victimisation to suppress the legitimate trade union activities of the workmen as alleged in paras 8 and 9 of the claim statement, and further, whether this action amounts to retaliatory steps taken by the second party management to defeat the disputes raised by the workmen for non-payment of increased over-time wages, increased bonus as per settlement and restoration of customary educational and medical benefits etc., as alleged in paras 10 and 9 of the claim statement ?

5. Whether the alleged misconduct mentioned in para 5 of the counter statement is proved ?

6. Whether the punishment of dismissal of the workmen in question is totally disproportionate to the charge of misconduct even if it is held proved ?

7. What Award ?

Taking several adjournments, the second party examined two witnesses as M. W. 1 and M. W. 2 and got marked Exhibits M. 1 to M. 28. In rebuttal evidence the first party examined the worker Sri A. Shivappa as A. W. 1. The representative of the first party, Sri Prabhakar Ghate, was also examined as A. W. 2 on behalf of the first party Seventeen documents were got marked on behalf of the first party as Exhibits A. 1 to A. 17. Arguments of the learned representatives for the parties were heard on 30th March 1971.

3. The case of the first party as per the claim statement is that the four workmen whose dismisal is the subject matter of this dispute were permanent workmen under the second party company and were working as vulcanisers. It is stated that by identical notices dated 12th November 1968, all the four workmen concerned in this dispute, namely, 1. M. K. Vittala, 2. A. Shivappa 3. K. Narayana and 4. U. Krishnappa, were charged with misconduct that they refused to take the tyres from the factory premises to the exit of the watchman and also refused to bring the retreading materials from the stores, though directed to do so. An explanation was called for from them. On 15th November 1968, the said workmen submitted their explanation. They denied that they were cleaners or helpers as alleged, though they admitted having joined the second party in those capacities. They asserted

that they were doing the work of vulcanisers, boiler attenders. etc., which is a skilled work. They reminded the management that they had been recommended by company itself for undergoing a course of boiler attenders. Further, they pointed out that there were coolies employed by the second party who were specifically employed to do the work which now, they were being called upon to perform. All the four workmen asserted that it was not their duty to take the tyres and bring materials from stores and hence in refusing to do the said work, they did not commit any misconduct. It is stated that the second party held a domestic enquiry into the charges. The workers did participate in the enquiry. But, the said enquiry was not conducted with due regard to the accepted principles of natural justice. The conduct of the enquiry officer was partisan and prejudiced. He did not record the statements of witnesses properly He himself promoted the management witness, the foreman of the second party, to depose in a particular manner. Protest from the workers was not heeded to. They were threatend and warned that they would be sent out. The workers' witness, Vittal Shetty, was also threatened by him. These facts were made known by the workers by their letter dated 3rd December 1968 sent to the second party. It is stated that the prejudiced attitude of this enquiry officer was evident when he refused to accept a letter dated 27th November 1968 submitted by the werkmen calling for production of certain documents. The letter had to be sent by registered post thereafter The documents called for were not produced by the second party. The enquiry officer did not take any steps with regard to the same. The findings of the enquiry officer are not at all based on any evidence. They are perverse. The action of the management in dismissing all the four workmen by separate identical orders dated 9th December 1968 amounts to victimisation. The action of the management is a *mala fide* one. The second party management has been trying to suppress the legitimate trade union activity of the workmen. The second party also refused to give the workmen their legitimate dues. It also harassed the workers. The second party discontinued certain benefits such as medical and educational aid to workmen. The workmen had no other go but to fight for these injustices legally. So, several disputes were raised with regard to non-payment of increased overtime wages resulting from wage increase, increased bonus as per settlement, restoration of customary educational and medical benefits, etc. Owing to all these factors, the second party took retaliatory steps in retrenching two helpers,

terminating the services of a cooly and finally dismissing these four workmen on a trumped up excuse. It is stated that the second party tried to reeruit two helpers in the places of those retrenched by it earlier. But, the retrenched workers thwarted its attempts and the second party had to take up the retrenched workers. All this unnerred and upset the second party which with vengeance dismissed these four workers. The dismissal of these workers is unjust, illegal and uncenscionable. The punishment is totally disproportionate to the charge even if proved. Lastly, it was prayed that the second party's orders of dismissal against these four workers may be set aside and the second party may be directed to reinstate them with full back wages with continuty of service and to pay exemplary costs.

4. The case of the second party as per the counter statement dated 11th November 1969 is that the dispute raised by the said four workmen is frivolous, vexatious and unsustainable in law. This dispute is not an industrial dispute. The said four workmen were employed in the second party concern. The second party concern is carrying on activities of tyre retreading in Mangalore, South Kanara. Sriyuths 1, M. K. Vittal, 2. A. Shivappa and 3. K. Narayana were employed as 'helpers' and 4 Sri U. Krishnappa as a cleaner'. The said three persons were given traning to learn tyre buffing, cementing, filling, rolling, moulding, tube repairs. They were also given traixing to facilitate them to obtain the certificate of Boiler attendors to enable them to improve their standard. While receiving training, the said workmen remained as helpers and cleaner as they were appointed. Till the training is finished and the management is satisfied about their work and appointed as vulcanisers or boiler attender, they remain as helpers or cleaner. The business of the second party concern was on the decline for reasons of nationalisation and because of more tyre retreading companies coming up in the locality and for the spirit of competition. Thus, the management was having only required and essentiel staff. On 12th November 1968, the management served notice on the said four workmen demanding explanation as to why disciplinary action should not be taken against them for disobeying on 11th November 1968, the direction given by the foreman in the usual course to take the tyres from the factory premises to the exit of the watchman posted at gate No. 2 as usual, and also for refusing to bring the retreading materials from the stores as usual. It is stated that this contituted misconduct. It is stated further that the explanation dated 15th November 1968

in two sets was received from the said workers. The helpers, Shivappa, Vittal and Narayana, explained that it is true that they were appointed as helpers but in fact they were performing the duties of the vulcaniser and also they were recommended by the second party to appear for Boiler attenders test. Therefore the work assigned to them is not the work connected with their employement nor the said work was done by them and that the said notices to be withdrawn. The cleaner Krishanappa also explained similarly. It is stated that since the management was not satisfied with the explanation which was very vague, the enquiry notices dated 25th November, 1968 were served on the said four workmen directing them to be present before the enquiry officer on 2nd December, 1968 along with evidence for enquiry, failing which order would be passed *ex parte*. Enquiry was conducted on 2nd December, 1968 in the presence of the said workmen. The management examined the foreman Sri A Bava Saheb and Assistant Foreman P.W.Soans and the workers got themselves examined. They also examined their witnesses during the domestic enquiry. The enquiry was conducted according to the accepted principles of natural justice. The said workers were given every opportunity to defend themselves. It is stated that the allegations in para 4 are denied. The allegations are afterthoughts and are made only with an ulterior motive It is stated that the management after going through the evidence and the enquiry officer's report, etc., came to the conclusion that the misconduct was proved against all the four workmen. it is stated further that the allegations made in paras 4, 5 and 6 are denied as false. It is stated that the findings of the enquiry officer were based on evidence and it cannot be termed as perverse. There is no case of victimisation as alleged. It is only a catch word of the Sangh to attack the *bona fide* actions of the management. It is stated further that in fact the management encourages *bona fide* trade union activities but fails to see the logic behind the disobedience of the order of the superior officers at the instance and connivance of the Sangh. These activities of the Sangh go to show that the object is only to sow the seeds of discord and to accuse the management of victimisation and harassment When the management was having prosperous business, the educational and medical facilities were given in deserving cases according to the financial position of the management. The Sangh was only angling for the dispute. The dismissal is only because of the misconduct committed by the workmen. The management does not believe in retaliation as in the case of the Sangh, which

challenges even the *bona fide* cases of dismissal for misconduct. The Sangh would do well in requesting the workers not to commit the acts of misconduct but to co-operate with the management. The conduct of the workers must be such that they must serve as models to other workers. Instead the Sangh is supporting the workers who were dismissed for their proved misconduct and hurling allegtions against the management and encouraging indiscipline. It is stated that the allegations made in para 11 are most incorrect. There is no point of wreaking vengeance. The facts in para 11 are twisted to the advantage of the union. The dismissal is just, proper and legal. It is stated that the management is keenly desirous of productions and to maintain cordial relationship with the workmen. The management does not desire to take action for pleasure or to wreak vengeeace The Sangh could do well in asking the workers to be disciplined, rather than searching for unfounded allegations whenever just and *bona fide* actions are taken by the management. In para 15 it is stated that other allegations not admitted therein are denied Lastly it was prayed that the demand and also the reference may be rejected. In view of these pleas, the afore-said additional issues were framed on 12th November 1969 apart from the points of dispute.

5. This is to be noted that the additional issue No. 1 was not pressed by the learned reperesentative for the second party, and that apart, this case being of the dismissal of the workmen is covered by the definition of deemed industrial dispute as envisaged in Section 2A of the Industrial Disputes Act, 1947 which reads:

> "Dismissal etc, of an individual workmen to be deemetod be an industrial dispute.— Where any emplyero discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workmen and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithtstanding that no other workman nor any unicn of workmen is a party to the dispute".

Hence the additional issue No.1 is answered in the terms that this dispute is an industrial dispute.

6. Sri K. S. Rao, the learned representative for the second party, argued on the points of dispute and the additional issues 3, 5 and 6 and also advanced his reply argument to the argument advanced by Sri P. Ghate, the learned representative for the first party, on the additional issues 2, 4 and 6. Sri K S. Rao argued that the second party management in order to prove that it was the duty of the workmen concerned to take tyres to the watchman's gate and also to bring the rubber from the stores for vulcanising examined the foreman A. Bava Saheb and Mr. P.W. Soans and the clerk Babu, during the domestic enquiry, and their evidence establishes that the helpers were rolling the tyres from the factory workshop to the watchman's gate and also they were bringing rubber from the stores, and that they were doing this work from the beginning, and that when the coolies happened to be present they would do this work, and that when the vulcanizers were not present, the helpers were trained to do vulcanising work. with reference to the cross-examination made by M. K. Vittal, the worker on the witnese Bava Saheb he argued that Bava Saheb stated in cross-examination that in the job card the miscellaneous work to be done was not mentioned. Therefore, the non production of the job card cannot be treated as an infirmity vitiating the domestic enquiry, but that apart it is not the case, as the perusal of the enquiry report Exhibit M. 22 would show that the documents including job cards that were asked by the delinquent workers to be produced were produced. during the domestic enquiry. He commented on the evidence of K. Rama and A. Sheshappa and contended that their evidence does not rebut the fact of the delinquent workers who are helpers and cleaner taking the tyres to the watchman's gate and bringing the rubber from the stores for vulcanising purpose. The enquiry officer has summed up the evidence and given his findings. The disobedience of the order of the foreman Bava Saheb is made out by the evidence of the witnesses of the second party management led before the enquiry officer. Therefore, the findings given by the enquiry officer cannot be said to be perverse. As regards the power of this Court as to whether it can weigh the evidence let in before the domestic enquiry and come to its own conclusion, when the domestic enquiry was held proderly following the principles of natural justice, he relied upon the rulings reported in 1958 (I) LLJ I. T. Bombay 110, 1962 I. C. R. Bombay 342, 1962 I. C. R. I. T. Bombay 715, 1970 (I) LLJ SC 23, 1957 (I) LLJ 17 (24), 1959 (I) LLJ 285, 1960 (I) LLJ 13, 1962 (II) LLJ 772, 1965 (I) LLJ 426 and 1969 (II) LLJ 799. On the other hand, Sri

P. Ghate took the Court through the entire evidence given by the witnesses during the domestic enquiry, and argued that it is not proved that taking of the tyres to the watchman's gate and bringing the rubber from the stores was a part of the duty of the vulcanisers or helpers or cleaners, but on the other hand, it is made out that such a work is a part of the duty of the coolies only. He conceded that the workers in fact refused to carry out this alleged work, it not being a part of their duty to perform. He referred to Exhibit W.3, the letter of the workers addressed to the management dated 3rd December 1968 during the domestic enquiry, and contended that the management failed to take any action on this letter and this passive attitude of the second party management reflects the mind of the management that it was bent upon to dismiss these workers at any rate for their trade union activities, and such an attitude of the management clearly amounts to victimisation. It is made out by the various correspondences between the management and the Sangh with regard to the wage increase, bonus and the withdrawal of medical and educational facilities, that the relationship between the workers and the management had become tense and strained. Further, the contents of para 4 of the counter statement speak for themselves that on account of the business of the second party concern being on the decline, the second party was obliged to reduce its existing strength of the staff. But, if it had retrenched the workmen in order to reduce the strength of the staff, it would have had to pay retrenchment compensation to the workmen so retrenched. So, in order to avoid payment of retrenchmeat compensation, the management has resorted to disciplinary action against the workmen by first asking them to do the duty which was not a part of their duty, but on the other hand, it was a part of the duty of a cooli, and on their refusal to perform that duty, the management initiated the proceedings against them dismissing them from service. That being the case, this conduct of the management would amount to victinisation of the concerned workers. He challenged the domestic enquiry to be not proper, on the ground that though it appears from the perusal of the enquiry report that the documents called for were produced, and were made use of by the enquiry officer, but, they were not marked as exhibits. The non-marking of the documents produced vitiates the domestic enquiry. With reference to Column 10 (2) of the enquity report, he argued that the name of Babu is not mentioned there. The omission of the name of Babu should be given importance, and in para 6 of the counter statement also, the name of Babu is not mentioned, and even in the list of documents

filed by the second party in this Court on 12th February 1970, the name of Babu does not find place. Thus, the omission of Babu's name in all the documents must be treated as material to infer the *mala fides* of the management. He contended that the evidence of the workers goes to prove that the carrying of the tyres to the watchman's gate and bringing the rubber from the stores for vulcanising purpose was not a part of their duty, but that it was the duty of the coolies. This evidence of their's is also supported by the statement of Bava Saheb who deposed that when workshop to be coolies present the work of rolling of tyres from the factory to the watchman's gate and bringing rubber from the stores used to be got done by the coolies, and that in their absence, he, *i.e.*, Bava Saheb, used to get this work done by the helpers, *i.e.*, the present workers. He contended further that Bave Saheb admitted in cross-examination that till 11th November 1968, coolies were getting rubber from the stores. He referred to the evidence of Vittal Shetty, worker, and contended that in cross-examinationhe frombas stated that even before he joined the second party, the coolies were there. When there were no coolies, they were brought the central supplies. Sri P. Ghate summed up his argument that the enquiry officer refused to accept the Exhibit W. 2 which was tendered to him and he did not mark the documents produced during the enquiry. The omission of Babu's name in several places reflects the mind of the enquiry officer, and the enquiry offi er has briefly referred to Babu's evidence in only three or four lines. He has not applied his mind to the evidence of Babu. If he had applied his mind to the evidence of Babu, he would have come to a different opinion. These are the infirmities which vitiate the domestic enquiry. He contended that the correspondence taken place between the management and the Sangh in connection with the wages' increase, bonus and the withdrawal of medical and educational facilities, throws light on the fact that the relationship between the workers and the management was uncordial and strained, and therefore the present workers were victimised by the second party in the garb of disciplinary action. He further contended that victimisation can be inferred from the severity of the punishment also. Even if it is taken for granted that the workers were wrong in refusing to roll the tyres and bring rubber from the stores, they could have been given some lighter punishment and not the punishment of dismissal. In support of his argument that punishment is disproportionate to he misconduct alleged, he cited the following rulings: 1969 (I) LLJ SC 208, 1967 (II) LLJ SC 118, 1965 (I) LLJ 462 and 1970

Lab. I C. 90 In the alternative he contended that if the reinstatement is not thought proper, then adequate compensation may be granted to the workers, who as per Exhibits W. 5 to W. 7 were designated as vulcanisers. Sri K. S. Rao in reply argued that Vittal Shetty's evidence indicates that the workers who are being trained as vulcanisers were appointed as helpers. Vittal Shetty was not examined by the first party in the Court to show that he was threatened, and that apart the witness who was examined in this Court stated that he does not know what was not recorded by the enquiry officer. As Sri P. Ghate pointed out during the course of his argument that the reports from Bava Saheb and Babu which have been referred to in the enquiry report were not produced by the second party in the Court, he argued that the reports from Bava Saheb and Babu were not necesary, because the evidence was taken only in respect of the charge levelled against them. He further argued that this case being a case of insubordination, the punishment of dismisal imposed on the first party workman is quite proper and justified. In support of this contention he cited the ruling reported in 1968 (I) LLJ SC 49.

7. I have given my anxious consideration to the learned arguments advanced on either side.

8. First I proceed to consider the additional issue No. 2. W. W. 1, Sri A. Shivappa, is one of the workers who was dismissed from service. He deposed that he was empl yed in Canara Tyre & Rubber Works Limited, Mangalore. He joined the second party in the year 1963, but he does not remember the date or the month of his joining. At the time he joined the second party in the year 1963 he joined as a cleaner. He has stated that the work of a cleaner was to clean the tyres, by using petrol and to put solution to the tyres. After sometime he was made to do the work of vulcanising. The work of a vulcaniser consists of buffing the tyres, grooving the tyres, filling the tyres, rolling, moulding and also to attend to the boiler. Thus from his evidence it is evident that he was appointed as a cleaner but he was given training of vulcanising. This is to be noted here that though he has stated as W. W 1 in this Court that he was employed in Canara Tyre & Rubber Works Limited, Mangalore as a cleaner, yet the perusal of his statement Exhibit M. 16 before the enquiry officer during the domestic enquiry, shows that he stated there that he was appointed not as a cleaner but as a helper. With regard to the other three workers he has

stated that he knows Krishnappa, Vittalla and Narayana. They were also working with him in the sec nd party factory. All the four of them were removed from service simultaneously. He has stated that M K. Vittala, Krishnappa and Narayana amongst them had been recommended by the management to undergo Boiler Attenders' training. The Boiler Attenders' Examination is conducted at Bangalore. Exhibit W 5 dated 15th March 1966 is a copy of the letter from the management addressed to four workers including U. Krishnappa and M. K. Vittala informing the decision of the management to send four workers for the Boiler Attenders' Examination at Bangalore, and directing them to go to Bangalore for the same. He has stated that the management treated them as vulcanisers. At page 4 he has stated that he was working as a vulcaniser at the time when his services were terminated. For the first six months after his joining in the year 1963 he has worked there as a cleaner. Thereafter, he had been working as a vulcaniser. In cross-examination he has stated that then he joined the second party management he joined as a cleaner. When he joined as a cleaner he was asked to do the work of applying solution to the tyres, clean the tyres, and to do filling work. As a cleaner he was not doing any other type of work besides this. After six months' service as a cleaner he was designated as vulcaniser, and not as a helper. He has stated that in their explanation dated 15th November 1968 marked as Exhibit M. 3 they have stated that it is true that they joined the service as helpers, but they had been doing the work of vulcanisers. He admitted that the management was giving the training of vulcanising for fifteen days. In cross-examination at page 5 he has stated that the foreman directs, i.e., directed them to do certain duties of a vulcaniser and they had been doing that. Thus from his evidence it is gathered that he was appointed as a helper or a cleaner but was doing the work of a vulcaniser at the time of his termination and the other three workers were also doing the work of vulcanising, and so they were designated as vulcanisers, and were directed to appear for Boiler attenders' examination at Bangalore. Therefore, their position according to their categories was that of helpers and cleaner, but they were doing vulcanising work though they were not actually appointed as vulcanisers. That apart, there is no documentary evidence to substantiate that they were actually appointed as vulcanisers. This conclusion is also supported by the evidence given by Bava Saheb on behalf of the second party management during the domestic enquiry. The perusal of the

statement Exhibit M. 11 of Bava Saheb, foreman, which is in Kannada, shows that A. Shivappa, M. K. Vittal and K. Narayana were helpers and Sri U. Krishnappa was cleaner. The statement Exhibit M 12 of Mr. P.W. Soans also shows that the workmen were given training of all kinds of work. M. K. Vittala in his statement before the enquiry officer, marked as Exhibit M. 14, stated that it is true that he joined as helper. But up till then he had been doing all kinds of work. He was given the responsible work of vulcaniser and he was doing the same properly. He farther stated that he has not done so far the kind of work mentioned in the notice No. 298/68, and that work is not connected with his work.

9. The statement of U. Krishnappa marked as Exhibit M. 17 is to the effect that it is true that he joined as helper. But he was doing the work of vulcaniser.

10. Sri K. Narayana in his statement before the enquiry officer marked as Exhibit M. 18 stated that it is true that he joined as a helper, but he was doing the work of a vulcaniser.

11. M. Vittal Shetty in his statement Exhibit M. 19 showed his ignorance with regard to the designation of Sri Krishnappa. He has stated that they were giving training of all kinds of tyre repairing.

12. Sri J. Sheshappa who has been examined on behalf of the workers before the domestic enquiry is a vulcaniser. His statement Exhibit M. 30 is to the effect that foreman and he were giving training to the helpers to do all kinds of work.

13 On the evidence indicated above, the additional issue No. 2 is answered in the terms that the worker Sri Shivappa was appointed as helper but was doing the work of vulcaniser and the other two workers, namely, M. K Vittal and K. Narayana were appointed as helpers but were given training of vulcanising work, and Sri U Krishnappa was though appointed as a cleaner was given training of valcanising and he was doing that work till his dismissal from service.

14. Now I advert to the additional issues 3 and 4 which are interconnected. These additional issues are liable to be considered bearing in mind the observations made by the Supreme Court and the Allahabad High Court as to the powers of the Industrial

Tribunal or the Labour Court as to when to interfere and when not to interfere with the findings of the domestic enquiry held against the workmen.

15. In 1969 (II) LLJ SC 793 (Tata Engineering and Locomotive Company, Ltd. V. Prasad (S.C.) and another) it is observed that—

> "It was further held that even when other incidental matters have crept in an enquiry an order of dismissal should be sustained if it was based on a finding on a charge which the workmen had an opportunity of meeting."

It is further observed that—

> "Industrial tribunals, while considering the findings of domestic enquiries, must bear in mind that persons appointed to hold such enquiries are not lawyers and that such enquiries are of a simple nature where technical rules as to evidence and procedure do not prevail and such findings should not be lightly brushed aside merely because the enquiry officers have in their reports mentioned facts which are not strictly borne out by the evidence before them. If the enquiry officer were to transgress the rules of natural justice by relying on matters which the workmen had no opportunity to meet, the validity of his findings would be effected As regards the ground that the general manager relied on extraneous matters relied upon by the enquiry officer for dismissing the workmen, held that the extraneous matters were not made use of finding them guilty by the enquiry officer and hence the general manager also had not relied on them for issuing the orders of dismissal. The workmen were dismissed by the general manager not because they were guilty of the charge of habitual disobedience but because they were actually found guilty of disobedience of company's orders and for inciting other workmen to disobey. Only the findings in respect of these charges alone were relied upon by the general manager in dismissing the workmen."

In 1959 (I) LLJ SC 285 (G. Mekenzie and Co., Ltd. V. Its workmen and others) it is held that—

> "The principles which govern the power of an industrial tribunal to interfere with the decision of the employer following an enquiry made by him have been laid down by the Supreme Court in 1958—I L L J 260 in the following words :—
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> "Undoubtedly, the management of a concern has power to direct its own internal administration and discipline; but the power is not unlimited and when a dispute arises, industrial tribunals have been given the power to see whether the termination of service of a workman is justified and to give appropriate relief. In cases of dismissal on misconduct, the tribunal does not, however, act as a Court of appeal and substitute its own judgment for that of the management. It will interfere
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> (i) when there is want of good faith,
>
> (ii) when there is victimisation or unfair labour practice,
>
> (iii) when the management has been guilty of a basic error or violation of a principle of natural justice, and
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> (iv) when on the materials the finding is completely baseless or perverse."

It is for the management to determine what constitutes major misconduct within its standing orders sufficient to merit dismissal of a workman but in determining such misconduct it must have facts upon which to base its conclusions and it must act in good faith without caprice or discrimination and without motives of vindictiveness, intimidation or resorting to unfair labour practice and there must be no infraction of the accepted rules of natural justice. When the management does have facts from which it can conclude misconduct, its judgement cannot be questioned provided the abovementioned principles are not violated. But in the absence of these facts or in case of violation of the principles set out above, its position is untenable.

In the absence of any of the vitiating circumstances mentioned above, it would not be open to the industrial tribunal (in the instant case by the Labour Appellate Tribunal in appeal)

to disbelieve the evidence of a witness examined at the domestic enquiry and come to a different conclusion on merits."

In 1963 (II) LLJ SC 367 (Sur Enamel and Stamping Works, Ltd. V. Their workmen) it is held that —

> "It is now well settled by various decisions that if an industrial employee's services are terminated after a proper domestic enquiry held in accordance with the rules of natural justice and the conclusions reached at the enquiry are not perverse, the industrial tribunal is not entitled to consider the propriety or the correctness of the said conclusions. But the said decisions do not mean that the mere form of an enquiry would satisfy the requirements of industrial law and would protect the disciplinary action taken by the employer from challenge. An enquiry cannot be said to have been properly held unless
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> (i) the employee proceeded against has been informed clearly of the charges levelled against him,
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> ii) the witnesses are examined—ordinarily in the presence of the employee—in respect of the charges,
>
> (iii) the employee is given a fair opportunity to cross—examine witnesses,
>
> (iv) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter, and
>
> (v) the enquiry officer records his findings with reasons for the same in his report".

In 1963 (II) LLJ SC 452 (Khardah and Co., V. Its workmen) it is held that—

> "Normally, evidence on which the charges are sought to be proved must be led at such an enquiry in the presence of the workmen himself".
>
> If it is shown that the employer was actuated by a desire to victimise a workman for his trade union activities, that itself may, in some cases, introduce an infirmity in the order of dismissal passed against such a workman".

It is further observed that—

> ".....that necessarily postulates that the enquiry would be followed by a statement containing the conslusions of the enquiry officer. It may be that the enquiry officer need not write a very long or elaborate report; but since his findings are likely to lead to the dismissal of the employee, it is his duty to record clearly and precisely his conclusions and to indicate briefly his reasons for reaching the said conclusions. Unless such a course is adopted, it would be difficult for the industrial tribunal to decide whether the approach adopted by the enquiry officer was basically erroneous or whether his conclusions were perverse".

In 1962 (II) LLJ SC 772 (Hamdard Dawakhana Wakf V. Its workmen and others) it is held that

> "Once it is held that the concerned workman was guilty of the misconduct alleged against him, the fact that he was an active member of the union not liked by the management beecmes irrelevant".

It is further observed in this ruling that—

> "In deciding the question as to whether a particular conclusion of fact was perverse or not, the industrial tribunal is not justified in weighing the evidence for itself and determining the question of the perversity of the view arrived at the domestic enquiry in the light of its own finding on the question of fact".

In A.I.R. 1966 Allahabad 130 (M/S. The New Victoria Mills Co., Ltd., Kanpur Petitioner V. Rohini Kumar and others, respondents) it is held that,—

> "Labour Court can interfere with an order of dismissal of a workman if it found that the order of dismissal was actuated by any *mala fides* or by victimisation or was an act of unfair labour practice. It can also interfere if it finds that the principles of natural justice were not observed. When any of these grounds are established, the Labour Court can itself examine the matter and come to the conclusion on the question whether there was justification for the order of dismissal. It can entertain evidence from the parties. Where, however, no such ground is established, then it will

not be justified in reviewing the evidence and coming to its own conclusion on the factual facts. It will interfere with the findings of the domestic enquiry only if those findings either are based on no evidence at all or are perverse. The Labour Court is not competent to enquire whether a particular witness has been rightly believed or not, or whether a particular finding was supported by sufficient evidence. The conclusions of facts recorded in the domestic enquiry, however etroneous those conclusions may appear to be to the Labour Court, cannot be interfered with. The evidence may be unsatisfactory, the decision may appear doubtful because the appreciation and analysis of the evidence is not proper. On investigation or examination, the process of a reasoning in arriving at a conclusion of a question of fact may appear unappealing. On these or similar grounds an authority having power to hear an appeal on facts alone can interfere. These grounds do not make the decision perverse. It is only the decision is impelled by arbitrariness or prejudice or if it is such, that to a judicial mind it appears that no rational or reasonable person could demonstrably reach that conclusion, that it can be condemned as perverse. Perversity in a recorded finding is a matter of objective determination. When a tribunal holds a finding perverse, the High Court, on being approached under Art. 226 of the Constitution, can examine the matter. If it is found that the concept of perversity has been misapprehended and misapplied, the decision of the Tribunal will betray a manifest error on the face of the record and will be liable to be set aside".

In 1970 (I) LLJ SC 23 (Delhi Cloth and General Mills Company, Ltd., v. Labour Court, Tis Hazari, and others) it is held that—

"When an industrial employee is dismissed as having been found guilty of misconduct at a fair and proper domestic enquiry, the labour court dealing with the industrial dispute in regard to such dismissal cannot reappraise the evidence recorded at the domestic enquiry and come to its own findings disbelieving witnesses for the management whose testimony had

been accepted for good grounds by the enquiry officer in his report. The legislature has not conferred upon the labour court power to sit in appeal over the judgment of the management in such matters. The labour court is therefore not competent to substitute its own Judgment for that of the management arrived at after consideration of the report of the enquiry officer and unless the case is brought within the exceptions pointed out in the decision in Indian Iron and Steel Company, Ltd., and others v. their workmen (1958-I L. L. J. 260), the action of the management must be upheld. If the labour court had reappraised the evidence as it had done in the instant case, its award could not be sustained. Such award could be set aside in appeal under Art. 136 of the Constitution of India on ground that the labour court has transgressed the limits of its jurisdiction".

From all these rulings it is gathered that if a domestic enquiry is properly held, the Labour Court or the Industrial Tribunal, cannot be competent to consider the sufficiency of the evidence adduced before the domestic tribunal in arriving at the conclusion in the case of the concerned delinquents or the Industrial Tribunal or the Labour Court does not possess the power of reviewing the evidence adduced before the domestic tribunal as if sitting in appeal over the judgment of the management in its internal administration. The finding of the domestic tribunal can be disturbed by the Industrial Tribunal or Labour Court only in cases where there is want of good faith, when there is victimisation or unfair labour practice, when the management has been guilty of basic error or violation of principles of natual justice, or when on the materials produced in the domestic enquiry the finding is completely baseless and perverse. In other cases the Industrial Tribunal or Labour Court is not competent to disturb the findings of the domestic enquiry, even if there is a possibility of coming to a different view, on the same materials that were produced before the enquiry officer. Bearing these principales in mind, I now proceed to consider, whether the domestic enquiry held in this case is proper or not, and that even if it is proper, whether the finding arrived at by the enquiry officer in the domestic enquiry can be interfered with, on any of the grounds mentioned in the additional issues 3 and 4.

16. The first grievance of the first party is that the reports of Bava Saheb and Babu, reference of which has been made in the

enquiry report, were not produceed in this Court, and their non-production has vitiated the domestic enquiry. No doubt in the enquiry report at pages 1 and 2 it is stated that A. Shivappa, M. K. Vittal and K. Narayana who are helpers, and U. Krishnappa who is cleaner, having refused to bring rubber from the stores on 11th November 1968 the factory clerk, Babu, gave report, and on the same day they having refused to roll the tyre from the factory to the watchman's gate Bava Saheb foreman gave report. On this allegation explanation was called for from all the feur of them But I think that the non-production of these reports in this Court cannot vitiate the domestic enquiry, because the first party workmen were not held guilty on these reports but they were held guilty on the evidence produced on the charge framed against them as contained the charge-sheet-*cum*-show cause notice. With regard to the enquiry proceeding Sri U. N. Bangera, the enquiry officer, who has been examined as M. W. 1 in this Court, has given evidence. He deposed that he was asked to enquire into the matter of the four workmen Shivappa and three others named in the reference. He was sent the file containing the show cause notice marked as Exhibit M. 1 dated 12th November 1968 addressed to U. Krishnappa, Cleaner and Exhibit M. 2 dated 12th November 1968 addressed to the helpers Shivappa, Vittala and Narayana. He has stated that Exhibit M. 1 bears the signature of Krishnappa marked as Exhibit M. 1 (a) and Exhibits M. 2 (a), M. 2 (b) and M. 2 (c) are the signatures of Shivappa, Vittala and Narayana. In Exhibit M. 1 which is the charge-sheet-*cum*-show cause notice and which relates to U. Krishnappa it is stated that he has been employed as cleaner by the management and he was aware that it was part of the duty of the cleaners *inter alia* to take the tyres from the factory premises and to place them at the exit of the watchman posted at gate No. 2, and to take delivery of the retreading materials from the store to the workspot. On 11th November 1968 when he was directed by the foreman to take the tyres from the factory premises to exit of the watchman posted at gate No. 2 as usual, he disobeyed the directions issued by the foreman. Again the same day when he was asked by the clerk of the factory to bring the retreading materials from the stores as usual, he refused to bring the said materials from the stores. This constitutes misconduct. He was asked to explain in writing within three days from the date of the receipt of this notice as to why disciplinary action should not be taken against him for the above misconduct failing which he would be taken *ex-parte*. Exhibit M. 2 contains similar statement. On the basis of these show

cause notices-*cum*-charge-sheets evidence of the management's witnesses and the delinquent workers' witnesses was taken down and the enquiry officer has given his finding as to their guilt. The enquiry officer M. W. 1 stated at pages 2 and 3 that Exhibit M. 22 is his enquiry report dated 6th December 1968 consisting of six pages. He found the workers guilty of misconduct disobeying the orders given by the foreman Bava Saheb. Exhibits M. 23 M. 24, M. 25 and M. 26 are the dismissal orders passed against U. Krishnappa, Shivappa, M. K. Vittala and K Narayana respectvely. Hence in my view, the non-production of reports of Bava-Saheb and Babu in this Court is not such a material circumstance as to vitiate the domestic enquiry. In the ruling of the Kerala High Court reported in 1968 (I) LLJ 49 (Malayalam Plantations, Ltd., Quilon (by manager of its agents, Harrisons and Crossfields, Ltd., Quilon) v. Industrial Tribunal, Calicut, and another) it is observed at page 50 that—

> "The enquiry was on the charge that was given to respondent 2, and not on the complaint that was made"

It was held in that case that—

> "On the facts and circumstances of this case it was not necessary to give a copy of the complaint to the employee before the commencement of the enquiry or to seek his explanation to the complaint or to give a list of witnesses before the enquiry".

It is true that this ruling relates to an application under Section 33 C (2) proviso of the Industrial Disputes Act, 1947, but the observation made in that case may be made use of in this case to answer the aforesaid plea taken by the learned representative for the first party. Hence I hold this plea to be devoid of merits.

17. The Second grievance is that the enquiry officer has not recorded the evidence of the witnesses correctly. The enquiry officer as M. W. 1 in cross-examination denied all the suggestions made by the learned representative for the first party at page 5 stating that it is not true to suggest that he has recorded the statement of Bava Saheb incorrectly, but he said that he has recorded it correctly, and it was read over to him before taking his signature and that he has not complained that it was not correctly recorded. He further stated that this is not correct to suggest that he was suggesting the answers to Baba Saheb during

the enquiry. It is not correct to suggest that he did not record the cross-examination answers of the witnesses properly and correctly. It is not true that during the recording of the statements of the workers he had threatened the workers that they would be sent out with the help of the watchman. It is also not true to suggest that he threatened the workers' witness Vittal Setty. He has stated that all these allegations he is hearing for the first time that day in the Court. This is to be remarked here that the witness M. K Vittal was not examined in this Court to prove that he was thereatened during the course of domestic enquiry, and the witness W. W. 1, Sri A. Shivappa, in cross examination at page 6 has stated that he does not know what matters the enquiry officer has not recorded. He stated that they have signed the statement of Bava Saheb at the domestic enquiry. They have signed all the statements of the persons who were examined in the domestic enquiry. In view of the denial of suggestions made to M. W. 1 and there being no specific proof of the enquiry officer recording the statements of the witnesses incorrectly or threatening the witnesses or prompting answers from them sutiable to the case of the management, this plea is also held as devoid of merits.

18. The third grievance is that non-marking of the documents produced during the domestic enquiry vitiates the domestic enquiry. In my view, then on-marking of the documents produced in the domestic enquiry also is not such an infirmity as to go the root of the domestic enquiry. That apart, from the statement of Bava Saheb it is clear that in the job cards miscellaneous works to be performed are not mentioned. At page 2 of his statement he stated that main works are entered in the job cards and miscellaneous works are not entered in the job card. Hence, the non-marking of the job cards, notice of change of duties, cannot be treated as vitiating the domestic enquiry. This plea also fails. The other plea of the omission of the name of Babu is also not material, because from the evidence of M. W. 1 it is found that he has recorded the statement of Babu and it is on record and the evidence was also referred to in the enquiry report.

19. The perusal of the domestic enquiry proceedings and the enquiry report goes to show that the first party workmen were served with charge-sheet-*cum*-show cause notice and the explanations were taken from them, and enquiry was held in their presence. The withesses on behalf of the managment, *viz.*, Bava

Saheb, P. W. Soans and Babu were examined in their presence and on behalf of the workers they themselves *i. e.* A. Shivappa, U. Krishnappa, K. Narayana and M. K. Vittal examined and also adduced their witnesses J. Sheehappa and K. Rama. They were given opportunity to cross-examine the management's witnesses. It is evident that on the basis of this evidence, the enquiry officer has come to the conclusion that they were guilty of disobeying the order of the foreman Bava Saheb. He has come to the conclusion that all of them admitted that foreman looks after all the work of the factory and gets it done from the workers. It is evident further without any doubt that it was the duty of the workers to do all the work ordered by the foreman. Hence the refusal of work on 11th November 1968 by these workmen amounts to the commission of guilt of disobedience, and that this disobedience is indicative of their arrogance resulting in purposely disobeying the orders of the foreman Bava Saheb. This conclusion of the enquiry officer, in my view, cannot be said to be, perverse; because from the statement of Bava Saheb it is clear that these helpers and cleaner workers used to carry out the duty properly as directed by him. They used to take tyre from the factory to the watchman's gate. In crossexamination by M. K. Vittala he has stated that in their factory some coolies were appointed and some left the job. He has stated that previously Rama was in their factory as cooli. He has stated that he has not told them to do the work that is to be done by a cooli.

20. P.W. Soans stated in his statement Exhibit M. 12 before the enquiry officer that previously helpers and cleaner used to take tyres from the factory to the watchman's gate. Cleaner was also doing this kind of work. These workers were given training of all kinds of work. As usual he asked them to bring the rubber from the store. Prior to that there were no coolies. The workers themselves used to do this work. They used to bring the rubber by putting it on a hand-cart.

21. Babu has stated that he produced the job cards and circulars to attend boiler attenders examination relating to the four workmen. He has stated that usually Bava Saheb gets done the work from the workers. No doubt Babu in cross-examintion stated that upto that time, *i.e.*, 11th November 1968 cooli used to bring rubber, and therekfter that work is done by the coolies and that if more than one cooli was required they used to call coolies from central supplies. But from the evidence of Bava

Saheb and P. W. Soans it is found that these helpers and cleaner used to bring the rubber from the stores and take the tyres to the watchmen's gate from the factory. No doubt the workers in their statements have denied this work to be part of their duty and stated that it is the work used to be done by the cooli. But there is no corroboration to their stand taken by any independent evidence. Because J. Sheshappa has shown his ignorance with regard to these workmen doing the work of cooli. The evidence of J. Sheshappa also is silent with regard to these workmen doing the work of bringing the rubber from the stores or taking tyres from the factory to the watchman's gate.

22. K. Rama stated that he was appointed as a cooli and he used to bring the rubber and used to sweep. After his joining the service he did not see the helpers and cleaner doing the work of cooli. In cross-exmination he has stated that he was removed from service on 7th of the previous month, i.e., November. His evidence also does not show that the helpers and cleaner were not doing the work of bringing the rubber from the stores and taking the tyres to the watchman's gate. That being the state of their evidence, the findings of the enquiry officer cannot be challenged as perverse. But, on the other hand, the findings are based on the evidence produce before him. That apart, even if a different opinion can be possible by the appreciation of the evidence, this Court will not be competent to distusb the findings of the domestic enquiry by substituting its own divergent opinion, in the light of the rulings quoted in the earlier part of this award.

23. Now I come to the plea of victimisation. With regard to victimisation W. W. 2, Sri Prabhakar Ghate, has stated at page 3 in his examination-in-chief that he says that after the union took up the cause of the workers for the payment of increased D.A. to their overtime earnings, and it took up the dispute regarding the reduction of bonus quantum to the workers, the relationship between the management on the one hand and the workers and the union on the other hand estranged. This has resulted in several facilities of the workers being withdrawn by the management and the termination of several workers by the management. But I do not think that the union's taking the cause of the workmen would have actuated the management to take revenge upon the workers by resorting to such an action. Because it is admitted by the workers that they refused to carry out the said duties, on their assertion that it was not a part of

their duties. They did not prove that they were actually appointed as vulcanisers but on the other hand it is proved they were helpers and cleaner, but were doing vulcanising work because of the training given to them for that work also. It is made out as per the domestic enquiry that the bringing of the rubber from the stores, and taking the tyres to the watchman's gate was part of the duty of the helpers and cleaners, and that they were doing this work from before. That being the cause, the refusal to do this work will certainly amount to grave misconduct, as it amounts to insubordination. From the evidence of Babu given before the enquiry officer, it is evident that they refused to bring the rubber from the stores, and from the evidence of Bava Saheb and P. W. Soans it is found that as these workmen refused to take the tyre to the watchman's gate from the factory when Bava Saheb had asked them to do so, the foreman Bava Saheb, and P. W. Soans were compelled take themeselves the tyre to the watchman's gate. Thus the refusal of carrying out the aforesaid duty by these workers, certainly constitutes insubordination amounting to serious misconduct. Hence my conclusion is that the domestic enquiry was held properly having observed the principles of natural justice giving full opportunity to these workmen to defend themselves, and that finding of the enquiry officer is not vitiated on any of the grounds mentioned in the additional issues 3 and 4. This will be my answer to the additional issues 3 and 4.

24. In view of the finding on the additional issues 3 and 4, the additional issue No. 5 is answered in favour of the second party and against the first party workmen that the misconduct mentioned in para 5 of the counter statement is proved in the domestic enquiry.

25. Now I come to the additional issue No.6 as to the severity of the punishment of dismissal. In this regard Sri P. Ghate has relied upon the rulings reported in 1965 (I) LLJ SC 462, 1967 (II) LLJ 118 and 1969 (I) LLJ Kerala 208. In the ruling reported in 1969 (I) LLJ Kerala 208 (Modern Woodcrafts, Dharmadam, Tellicherry (by General Manager, P. Muthukrishnan) v. Modern Woodcrafts Employees, Union, Dharmadam, Tellicherry (by seeretary), and others it is held that :-

> "It is well-settled that in appropriate cases where a tribunal is satisfied that the punishment imposed upon a worker is too harsh or severe in that it is out of all proportion

to the gravity of the delinquency, it is open to the tribunal to interfere with the punlisment, not because the tribanal has appellate jurisdiction to sit in judgement over the propriety of the punishment imposed at the domestic enquiry, but because the severity or the harshness of the punishment is cogent evidence of victimisation or unfair labour practice. To say that the nature of punishment in all cases is within the exclusive jurisdiction of the management and that a tribunal can under no circumstence interfere with it, may not, therefore, be correct. If the punishment imposed is ostensibly for the charge proved but really for a collateral purpose designed not for the purpose ostensibly stated. but for ulterior reasons not connected with the charge, than, the jurisdiction of the tribunal is attracted. for the reason. that the punishment is imposed not *bond fide*. In appropriate cases where the punishment is too severe judged by the standard of the reasonable man it is open to the tribunal to interfere with the punisment not because the tribunal has got appallate jurisdiction over the punishment imposed at the domestic enquiry but because the tribunal has jurisdiction to find from the severity of the punishment that its imposition was actuated by a motive to victimise the worker".

In the ruling reported in 1967 (II) LLJ Madras 118 (Lakshmi Saraswati Motor Transport Company v. Labour Court, Madras, and another) it is held that—

"The circumstances of this case warrant the application of the principle laid down by the Supreme Court in Hind Construction and Engineering Company, Ltd. v. their workman (1965-I L.L.J. 462). Where the punishment is shockingly disproportionate. regard being bad to the particular conduct and the past regard or is such as no reasonable employer would ever impose in like circumstances, the tribunal may treat the imposition of such punishment itself as showing victimisation or unfair labour practice".

In the ruling reported in 1965 (I) LLJ SC 462 (Hind Construction and Engineering Company. Ltd. v. their workmen) it is observed at page 465 that—

"In our judgment, this is one of those cases in which it can plainly be said that the punishment imposed was one

which no reasonable employer would have imposed in like circumstances unless it served some other purpose. There was a practice of substituting for a holiday falling on a Sunday, the day next following. This appears to have been done in the appellant company for a number of years. In this year also 2nd January would have been a holiday but for the contrary decision of the management. From the record it does not appear that there was anything very special requiring attention on that day. But assuming there was, the absence of the eleven workmen on 2 instant was not something for which no lesser punishment could have been imposed. The absence could have been treated as leave without pay; the workmen might even have been warned and fined. It is impossible to think that any other reasonable employer would have imposed the extreme punishment of dismissal on its entire permanent staff in this manner".

But such is not the case here. However, in my view, there is no quarrel with the principles laid down in the said rulings. but in the present case the misconduct being of insubordination to the orders made by the foreman Bava Saheb, the order of dismissal cannot be said to be disproportionate to the gravity of the misconduct. Therefore, the punishment of dismissal cannot be treated as servere or harsh. This will be my answer to the additional issue No. 6.

26. In view of the findings on the additional issues 3 to 6, the point No. 1 of the points of dispute is answered in the terms that the management of Canara Tyre and Rubber works Ltd., Kodialbail, was justified in dismissing Sriyuths: M. K. Vittala, A. Shivappa, K. Narayana and V. Krishnappa with effect from 9th December 1968, and the second point of dispute is answered in the terms that the said workers are not entitled to the relief of reinstatement with continuity of service and back wages or to any other relief.

27. Now remains the additional issue No. 4 as to 'what award'. In view of the findings on the additional issues 3 to 6 and the points of dispute 1 and 2, I make the following award:-

AWARD

The reference is answered in the terms that the management of Canara Tyre and Rubbber Works Ltd., Kodialbail was justified in dismissing Sriyuths: M. K. Vittala, A Shivappa, K. Narayana and V Krishnappa with effect from 9th December 1968, and that the said workmen are held not entitled to the relief of reinstatement with continuity of service and back wages or to any other relief. In the circumstances of this case, the parties are directed to bear their respective costs of this reference.

Mangalore,
13th April 1971

MOHD. HAMEEDUDDIN KHAN,
Presiding Officer,
Labour Court, Mangalore.

ORDER

Bangalore, dated 22nd April 1971.

S. O. 957.—WHEREAS by State Government Order No. FCL 407 LLD 69, dated 1st September 1969, the Industrial Dispute between the Workmen and the Management of Canara Tyre and Rubber Works Ltd., Kodialbail, Mangalore was referred Labour Court, Mangalore for adjudication;

AND WHEREAS the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute;

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. FCL 45 LLA 71.]

By Order and in the name of the Governor of Mysore,

ANIRUDHA DESAI,
Under Secretary.